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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/699,568

10/31/2003

Surya Varanasi

112-0132US

1585

29855

7590

04/01/2008

WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI,
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20333 SH 249

SUITE 600

HOUSTON, TX 77070

EXAMINER

DUONG, FRANK

ART UNIT

PAPER NUMBER

2616

MAIL DATE

DELIVERY MODE

04/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/699,568</p>	<p>Applicant(s) VARANASI ET AL.</p>	
	<p>Examiner Frank Duong</p>	<p>Art Unit 2616</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Frank Duong/
Primary Examiner, Art Unit 2616

Continuation of 11. does NOT place the application in condition for allowance because: The response filed 03/17/08 fails to place the instant application in a favorable condition for allowance for the following rationales: Pertaining the rejection of claims 1-3, 6, 19, 20, 29, 30, 32 under paragraph 112, second, Applicants refuse to the amend the claim language of "an edge switch" recites numerous on lines 3, 4, 5 and 12, for example independent claim 1, and argue that such claim language is proper. To support the argument, the Applicants state "The claim is written to allow there to be multiple edge switches, both receiving and transmitting. Thus a frame enters an edge switch, proceeds to a core switch and exists an edge switch. There is no requirement that the receiving and exiting edge switches be the same switch." Examiner respectfully disagrees with such statement. In the specification, "a switch", regardless "an edge switch", "ingress switch" or "egress switch", the Applicants could call it whatsoever the Applicants are desired because the Applicants are their own lexicographers. However, in the claims, the language must be drafted to comply with the 112, second paragraph requirements. The claim language must particularly point out and distinctively claim the subject matter which the Applicants regard as the invention. If "an edge switch" refers to two different switches, the first occurrence of "an edge switch" ought to be referred to as "a first edge switch" and the subsequent one would be "a second edge switch". If the same "edge switch" Applicants are intended to claim, the first occurrence would be "an edge switch" and the subsequent would be "the edge switch" or "said edge switch." Other types of switches in the claim would be referred to differently. Such refusal does not overcome the 112, second paragraph rejection. Pertaining the art rejection under paragraph 103 over Valdevit in view of TechnNote, Applicants disagree with the Examiner's interpretation of the TechNote. To support the disagreement, Applicants argue "The independent claims all require either one switch or routing logic associated with a switch to select a route through at least two switches forming the core-edge switch configuration." In the preamble of the independent claim 1, it states "the core-edge switch configuration configured to receive frames at an edge switch, route them to a core switch and then route them to an edge switch for transmission." It is understood as "The frames are received at an edge switch, route them to a core switch, the route them out from the same edge switch," because of there is no clear language in the claim to say whether "an edge switch" is the same one or a different "edge switch" as subsequently recited. Applicants are reminded that the USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023,1027-28 (Fed. Cir. 1997). The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed. In addition, the "applying a process" step is not different from applying load balancing through inter-link switch trunking. That process is clearly disclosed on page 23 in according with Figure 17 of the TechNote as clearly pointed out in the Office Action. Applicants are recommended to further amend the claims to overcome the outstanding rejection set forth in the Office Action and to place to instant application in a favorable condition for allowance.